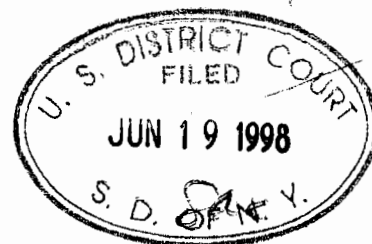


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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

NEW YORK CITY POLICE  
DEPARTMENT,

Defendant.

-----X

STIPULATION AND ORDER

OF SETTLEMENT

96 Civ. 4217 (MBM) (THK)

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, that, pursuant to the Settlement Agreement between the United States of America and the New York City Police Department (the "Agreement") attached hereto, this action <sup>being hereby settled,</sup> will be placed on the Court's suspense docket <sup>for purposes of entry of judgment</sup> until December 31, 2001. T.K.

Dated: New York, New York

June 18, 1998

MARY JO WHITE  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By:

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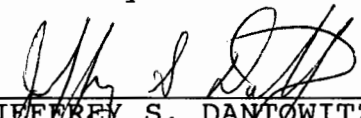
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MICHAEL D. HESS  
Corporation Counsel of the  
City of New York  
Attorney for Defendant

By:

  
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SO ORDERED:

  
UNITED STATES MAGISTRATE JUDGE

6/18/98

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA  
AND THE NEW YORK CITY POLICE DEPARTMENT**

**I.           BACKGROUND**

1.       The United States of America ("United States") has brought an action captioned United States of America v. New York City Police Department, 96 Civ. 4217 (MBM) (THK), in the Southern District of New York ("the civil action") pursuant to Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), following the referral to the Department of Justice from the Equal Employment Opportunity Commission ("EEOC") of a charge filed by Sheryll L. Goff, charge number 160931197.

2.       In its Complaint, the United States alleges, inter alia, that the New York City Police Department (the "NYPD") has violated Title VII by (a) engaging in and permitting acts of sexual harassment against Ms. Goff during her employment as a police officer with the NYPD that adversely affected the terms, conditions, and privileges of her employment; and (b) failing or refusing to take appropriate action to halt the harassment or remedy the effects of the discriminatory treatment of Ms. Goff.

3.       The United States and the NYPD seek to ensure that the NYPD takes such affirmative steps as are reasonably necessary to effectively address and prevent discrimination in the NYPD.

4.       The United States and the NYPD, having the mutual goal of ensuring equal employment opportunity within the NYPD, are the parties to this Settlement Agreement (the "Agreement"), and agree that the NYPD will take all steps reasonably necessary to maintain a discrimination-free workplace including, but not limited to, the following:

## **II. GENERAL PROVISIONS**

5. As used in this Agreement, the term "employee" is defined as any employee of the NYPD, including uniformed and nonuniformed personnel.

6. The "effective date of this Agreement" is the date of the latest signature below.

## **III. TRAINING**

7. The NYPD will enhance its existing equal employment opportunity ("EEO") training program to ensure that supervisors and employees of the NYPD are instructed on a periodic (not less than annual) basis regarding what acts may constitute gender discrimination, including sexual harassment, the possible penalties for engaging in such discrimination, and the procedures for reporting and investigating claims of employment discrimination and related retaliation. This program will emphasize the NYPD's commitment to eliminating gender discrimination, including sexual harassment, in the workplace.

8. The EEO training program will continue to include training for all new employees, including an EEO workshop and videotape containing segments regarding gender discrimination, sexual harassment, and related retaliation, and lectures on EEO law. The training will be conducted by instructors trained in EEO matters. The training of the instructors will be determined by the Deputy Commissioner of the NYPD's Office of Equal Employment Opportunity ("OEEO"), in conjunction with the NYPD's Director of Training. The EEO workshop and videotape already used in such training will be broadened to encompass a wider range of EEO issues.

9. The training program will include annual mandatory training on sexual harassment for every employee. The EEO training will be conducted by instructors trained in EEO matters. The curriculum for the training of the instructors will be determined by the Deputy

Commissioner of OEEEO, in conjunction with the Director of Training. The EEO training will include an EEO training videotape, and may include an EEO workshop, and may be included in in-service training at the precinct level. The principles of the NYPD's "Courtesy, Professionalism and Respect" ("CPR") program will be incorporated in EEO training, as it is in all aspects of NYPD training.

10. NYPD's Executive Development curriculum will include a two-hour program entitled "Managing Diversity and EEO Issues." This program will be required for all employees entering the managerial level, which consists of those holding the rank of captain and above as well as civilian managers. This program will include instruction in managers' responsibilities concerning employment discrimination (including, for example, intervention and prevention) and the unlawfulness of retaliation.

11. Annual leadership training for all uniformed and civilian supervisors will include mandatory training on EEO issues, including gender discrimination and sexual harassment. This training will be conducted by an instructor trained in EEO matters, and will include new "role plays" with increased instruction in preventing hostile work environments and sexual harassment. This training will include the updated EEO training video and case studies generated from closed OEEEO investigations. It will also include instruction in supervisors' responsibilities concerning employment discrimination (including, for example, intervention and prevention) and the unlawfulness of retaliation.

12. To further the enhanced emphasis to be given EEO issues within existing training programs, the NYPD will strengthen the relationship between OEEEO and Police Academy personnel, such that OEEEO will have a greater role in training employees of the NYPD regarding EEO issues. Among other things, OEEEO, in conjunction with the Director of Training, will develop a curriculum to train Police Academy instructors concerning EEO issues, will assist in

reviewing the Police Academy's curriculum as it pertains to EEO issues, and will participate in the actual training of Police Academy instructors.

13. The sexual harassment workshop and video used in training will be broadened and updated to encompass a wider range of EEO issues. This workshop and video will be revised periodically to take account of new developments in the law.

14. Additional discussion of CPR and EEO issues, as recommended by OEEA, in conjunction with the Director of Training, will be included as part of a Police Academy supervisory newsletter to be distributed to all supervisors on a quarterly basis.

15. The Director of Training and/or the Commanding Officer of the Police Academy will receive specialized training in EEO issues, including sexual harassment, upon assumption of that position. The Director of Training and/or the Commanding Officer of the Police Academy will also be required to meet with the Deputy Commissioner of OEEA at least twice annually to discuss EEO training and other related issues.

16. Some portion of the Police Academy examination for new recruits and NYPD internal examinations administered as part of a supervisory training course will be reserved for questions concerning EEO issues, including sexual harassment. The NYPD will make available for review by the United States Attorney's Office for the Southern District of New York ("USAO") the Police Academy examination for new recruits and NYPD internal examinations administered as part of any supervisory training course.

17. Police Academy staff responsible for developing the EEO training curriculum will be required to take courses from the Cornell University School of Industrial and Labor Relations (or receive comparable training) to equip them to provide EEO training to recruits.

18. On an annual basis, the NYPD will distribute to all of its employees, consistent with the policies of the New York City Department of Citywide Administrative Services ("DCAS"), an EEO policy book which includes: (1) the identity and location of the Deputy Commissioner of OEEEO and EEO Liaison Counselors; (2) the EEO policy statement and sexual harassment policy statement; (3) the NYPD's internal OEEEO complaint procedure; and (4) a sexual harassment pamphlet.

19. NYPD will institute the revisions to the NYPD training programs outlined in paragraphs 7 through 18 within six (6) months following the effective date of this Agreement. Within thirty (30) days of the date each of the revisions in paragraphs 7 through 18 is instituted, the NYPD will provide written notice to the USAO that the revisions have been instituted and will make available to the USAO records, reports and/or documentation necessary to establish the NYPD's compliance with paragraphs 7 through 18, except where otherwise provided in paragraph 16.

#### **IV. DISSEMINATION OF THIS AGREEMENT**

20. No later than fourteen (14) days following the effective date of this Agreement, the Police Commissioner ("Commissioner") will issue a FINEST message, to be read at ten (10) consecutive roll calls, and given to all Principal Administrative Aides at all commands for distribution to all civilians, announcing this Agreement, emphasizing the Commissioner's commitment to eliminating gender discrimination, including sexual harassment, within the NYPD, and stating that a copy of this Agreement will be available at all NYPD facilities. For all future employees, the NYPD will distribute the NYPD Equal Employment Opportunity Policy then in existence and notice of the availability of a copy of this Agreement at all NYPD facilities within seven (7) days of hire.

21. No later than fourteen (14) days following the effective date of this Agreement, the NYPD will make copies of this Agreement readily available to employees at all NYPD facilities, including the offices at Police Headquarters, the Police Academy, and all other training facilities.

22. Within six (6) months of the effective date of this Agreement, all commanding officers/unit heads will meet with the ranking officers/supervisors within their commands/units to advise them of the terms of this Agreement and discuss their responsibilities under it. Within ninety (90) days of the effective date of this Agreement, the NYPD will produce and prepare a video concerning this Agreement and the NYPD's commitment to eliminating gender discrimination, including sexual harassment, within the NYPD. The NYPD will show this video to all employees as soon as practicable. All commanding officers/unit heads will provide written notice to OEE0 that the FINEST message described in paragraph 20 above has been read at ten (10) consecutive roll calls and distributed to all civilians, that the commanding officers/unit heads have met with the ranking officers/supervisors within their commands/units as provided in this paragraph, and that the video described in this paragraph has been shown to all employees.

23. At least annually after the effective date of this Agreement, all commanding officers/unit heads will meet with the ranking officers/supervisors within their commands/units to discuss their responsibilities under the NYPD's EEO policy, in accordance with an agenda to be developed in coordination with OEE0. All commanding officers/unit heads will provide written notice to OEE0 that the terms of this paragraph have been complied with.

24. Within 14 days of receipt, OEE0 will provide to the USAO copies of the written notices described in paragraphs 22 and 23 and will make available to the USAO records,



reports and/or documentation necessary to establish the NYPD's compliance with paragraphs 20 through 23.

**V. SURVEY OF COMPLAINANTS**

25. In order to determine how OEE0 is perceived by employees of the NYPD who have dealt with OEE0, the NYPD agrees to distribute a survey, within one year of the effective date of this Agreement, to 150 randomly-selected employees who made complaints to OEE0 between January 1, 1995 and December 31, 1997. Four (4) weeks prior to distribution, the NYPD will forward a copy of the survey to the USAO for its review and comments. The survey will ask, inter alia, the title/position of the complainant, how the complainant came to OEE0, with whom the complainant dealt in OEE0, whether the OEE0 employee's attitude/response was helpful, encouraging, neutral, discouraging, skeptical, or other, whether the complainant was satisfied with the process and/or results of the complaint, and the reasons why or why not. The survey will also explore attitudes and perceptions about conciliations and investigations, in both OEE0 and the field. The survey will invite, but not require, those responding to identify themselves. The NYPD will bear the cost of the survey.

26. If fewer than 100 responses are received, the NYPD will distribute the survey to additional randomly-selected employees in an effort to maximize responses received.

27. The results of the survey will be tabulated within ninety (90) days of receipt by the NYPD of the responses to the survey.

28. Within two months following the tabulation of results, OEE0 will issue a report to the Commissioner analyzing the results of the survey and making recommendations with respect to issues raised by the survey. A copy of that report will be forwarded to the USAO and the

NYPD Quality Assurance Division within thirty (30) days, and the completed surveys and tabulations will be made available to the USAO upon request.

**VI. REVIEW OF OEEEO BY THE NYPD QUALITY ASSURANCE DIVISION**

29. Not earlier than one year or later than two years after the results of the survey described above have been tabulated and the changes in OEEEO practices and procedures detailed in this Agreement have been implemented, the NYPD Quality Assurance Division will conduct a review of OEEEO and its operations. Following this review, the Quality Assurance Division will issue a report to the Commissioner and OEEEO. OEEEO will issue a report to the Commissioner within four weeks of its receipt of the Quality Assurance Division report responding to that report and making recommendations with respect to issues raised therein. The NYPD will forward the results of the Quality Assurance Division review, as well as OEEEO's response, to the USAO within thirty (30) days of the issuance of OEEEO's response. The NYPD will also advise the USAO whether and to what extent the recommendations of the Quality Assurance Division and OEEEO have been implemented, will make available to the USAO records, reports and/or documentation necessary to establish the implementation of the recommendations, and will forward to the USAO any written endorsement from the Commissioner relating to the review within seven days of the endorsement.

**VII. CHANGES TO THE REPORTING, HANDLING, INVESTIGATION, AND CONCILIATION OF EEO COMPLAINTS**

**1. Reporting Of Discriminatory Acts**

30. The NYPD will amend the Patrol Guide to provide that any non-supervisory employee who becomes aware of an employment discrimination complaint or problem is strongly encouraged to report the complaint or problem to OEEEO, a supervisor at any level, or an EEO Liaison Counselor.

31. The NYPD will amend the Patrol Guide to provide that any non-supervisory employee who (1) becomes aware of a complaint or problem of retaliation for making an EEO complaint or participating in an EEO investigation, or (2) is asked or encouraged to retaliate against an employee of the NYPD for making an EEO complaint or participating in an EEO investigation, is strongly encouraged to report that conduct to OEEEO, a supervisor at any level, or an EEO Liaison Counselor.

32. The NYPD will amend the Patrol Guide to provide that any supervisor who becomes aware of any act of retaliation is required to report it to OEEEO.

33. The Commissioner will issue an interim order encompassing the requirements of paragraphs 30-32 above within ninety (90) days following the effective date of this Agreement. The NYPD will forward a copy of the order to the USAO within ten (10) days of issuance.

2. **Supervisors' Responsibility When Receiving a Complaint**

34. Consistent with the NYPD's commitment to eliminating gender discrimination, including sexual harassment, within the NYPD, the Patrol Guide will continue to require that "[a]ny supervisor who becomes aware of any discrimination complaint or problem MUST report the complaint or problem to the Office of Equal Employment, which Office will determine the merits of the complaint or problem." Patrol Guide ("PG") 120-12. In addition to requiring that the report must be made orally by the next business day, PG 120-12 will be amended to require that the supervisor must report the complaint in writing to OEEEO within five (5) business days.

35. In addition, the Patrol Guide will be amended to provide that any supervisor who becomes aware of any employment discrimination complaint or problem must, as soon as practicable, take such actions as may be directed by OEEEO to prevent employment

discrimination, including sexual harassment and related retaliation, from occurring in the future. The Patrol Guide will be amended to provide that such actions may include, but are not limited to, ordering informal counseling for the respondent, ordering instruction on EEO matters for employees of the command/unit, advising employees of the command/unit that employment discrimination, including sexual harassment and related retaliation, are prohibited, or advising the respondent that the NYPD will not tolerate such behavior and that discipline may result.

36. Commencing no later than ninety (90) days following the effective date of this Agreement, whenever a supervisor reports an employment discrimination complaint or problem to OEE0, OEE0 must forward to the supervisor and his or her commanding officer a memorandum advising them as to their immediate responsibilities regarding the complaint or problem. The memorandum will provide that any supervisor who becomes aware of any employment discrimination complaint or problem must, as soon as practicable, take such actions as may be directed by OEE0 to prevent employment discrimination, including sexual harassment and related retaliation, from occurring in the future. The memorandum will further provide that such actions may include, but are not limited to, ordering informal counseling for the respondent, ordering instruction on EEO matters for employees of the command/unit, advising employees of the command/unit that employment discrimination, including sexual harassment and related retaliation, are prohibited, or advising the respondent that the NYPD will not tolerate such behavior and that discipline may result. A copy of the memorandum will be retained in the file.

37. Whenever OEE0 directs any supervisor to take action pursuant to ¶ 36 above, that directive and the supervisor's compliance will be documented in the complaint file.

38. The Patrol Guide will be amended to provide that any supervisor who fails to report an employment discrimination complaint or problem to OEE0 within the required time

frames and/or who fails to take such actions as may be directed by OEE0 to prevent employment discrimination, including sexual harassment and related retaliation, from occurring in the future will be subject to discipline.

39. The Commissioner will issue an interim order encompassing the requirements of paragraphs 34, 35, and 38 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

**3. Procedures For Handling Internal Complaints Of Discrimination,  
Including Sexual Harassment And Related Retaliation**

40. Within ninety (90) days following the effective date of this Agreement, the NYPD will amend its written procedures for handling discrimination complaints so as to be consistent with the terms of this Agreement, and forward a copy to the USAO for its review and comments. The NYPD will distribute its written procedures for handling discrimination complaints to every employee of the NYPD at least once every three years. Those procedures will be reviewed annually by the Commanding Officer of OEE0 or his/her designee to verify that they are current. All literature distributed by OEE0 will be reviewed annually by the Commanding Officer of OEE0 or his/her designee to verify that it is consistent with the written procedures.

41. During the lifetime of this Agreement, OEE0 will forward to the USAO a copy of its written procedures each time it distributes them to every employee of the NYPD, and will forward to the USAO on an annual basis all literature distributed by OEE0.

42. OEE0's written procedures for handling employment discrimination complaints will include the following:

a. Any NYPD employee who believes that (s)he has been discriminated against or harassed because of his or her gender, or who believes that (s)he has been retaliated against for opposing policies or practices which (s)he believes to be discriminatory, including making a complaint of employment discrimination or cooperating with the investigation of such a complaint, may bring the matter to the attention of a supervisor or manager at any level, OEEEO, or an EEO Liaison Counselor.

b. Any non-supervisory employee of the NYPD who believes that another NYPD employee has been discriminated against or harassed because of his/her gender, or who believes that another NYPD employee has been retaliated against for opposing policies or practices which (s)he believes to be discriminatory, including making a complaint of employment discrimination or cooperating with the investigation of such a complaint, may bring the matter to the attention of a supervisor or manager at any level, OEEEO, or an EEO Liaison Counselor.

c. Any supervisory employee of the NYPD who believes that another NYPD employee has been discriminated against or harassed because of his/her gender, or who believes that another NYPD employee has been retaliated against for opposing policies or practices which (s)he believes to be discriminatory, including making a complaint of employment discrimination or cooperating with the investigation of such a complaint, must report the matter to OEEEO.

d. Complaint forms will be readily available to all NYPD employees at all NYPD facilities.

e. OEEEO will continue to document every sexual harassment case (as described in paragraph 43 below) reported to OEEEO.

f. Upon receiving a complaint or report of employment discrimination, including sexual harassment and related retaliation, from any source, OEEEO must attempt to contact and interview the complainant, if known, as soon as practicable. In its first contact with the complainant, OEEEO must advise the complainant that (s)he may have a representative of his or her choice accompany him or her to any interview, and that this would include a representative from any fraternal or line organization. In its first contact, OEEEO must also advise the complainant that (s)he may be interviewed at a discreet location of his or her choice to protect his or her confidentiality. Such location may include OEEEO or the complainant's home, but not the complainant's command.

g. Upon receiving a complaint of employment discrimination, including sexual harassment and related retaliation, OEEEO may search NYPD records, including the Central Personnel Index and OEEEO records, to determine the existence of any prior complaints or inquiries alleging discrimination against the same individual(s) or within the same command or precinct. This information may be considered to, inter alia, (1) determine whether or not the complaint is appropriate for investigation or conciliation within or without the command; and (2) determine whether this complaint is related to any other complaints reported to OEEEO.

h. At the initial interview, OEEEO must advise the complainant orally of the discrimination complaint procedures followed by OEEEO and give the complainant a copy of all applicable written procedures. The complainant will also be notified orally and in writing that (s)he may file a complaint with OEEEO and at the same time file a complaint with outside agencies, namely, the EEOC, the New York State Division of Human Rights, or the New York City Commission on Human Rights. In addition, all persons who make complaints to OEEEO will be advised orally and in writing as to the statute of limitations for filing a charge of discrimination with

each of the above outside agencies and that the filing of a complaint with OEEO does not alter the statute of limitations.

i. If OEEO learns of a complaint of employment discrimination through a supervisor in the field or EEO Liaison Counselor, made by a complainant who has asked to remain anonymous, OEEO will forward a copy of the discrimination complaint procedures to the complainant through the supervisor or EEO Liaison Counselor.

j. At the initial interview, OEEO will notify the complainant orally and in writing that the interview is not an interview pursuant to PG 118-9 and that (s)he may choose whether or not to have the interview tape-recorded by OEEO. If the complainant chooses to have the interview taped, (s)he will be advised that (s)he may obtain a copy of the tape from OEEO.

k. At the initial conference, OEEO will fully explain to the complainant, orally and in writing, the options of (1) investigation by OEEO, (2) investigation by the command, (3) conciliation by OEEO, and (4) conciliation by the command. The complainant will then indicate his/her choice, which must be recorded on the revised Complaint Evaluation and Option Report attached hereto as Exhibit A. If the conciliation is conducted by the commanding officer or a designated supervisor, then any necessary fact-finding also will be done by the commanding officer or the designated supervisor. If at any point the complainant is not satisfied with the course of the conciliation, (s)he may select a full investigation by OEEO. In addition, if conciliation does not succeed in resolving the matter, a full investigation will be conducted by OEEO. Finally, OEEO must advise the complainant orally and in writing that conciliation does not result in disciplinary action, except in extraordinary circumstances or where other unrelated misconduct is discovered.

l. All allegations of discrimination-related retaliation will be investigated by OEEO.



m. Where practicable, OEEO will contact witnesses through a designated point of contact to protect confidentiality. All witnesses interviewed by OEEO may have a representative of his or her choice, including a representative from any fraternal or line association, accompany him or her to any interview, consistent with current practice.

43. Except with respect to cases already pending, OEEO will assign a case number upon the receipt of every new complaint or inquiry which states an OEEO claim of employment discrimination (including sexual harassment and related retaliation) based solely on the allegations reported. OEEO will treat every such case as a complaint to which the complaint procedures referred to in paragraphs 41 and 42 apply.

44. The Patrol Guide will continue to provide that OEEO will treat each complaint of discrimination confidentially. Additionally, the NYPD will follow DCAS guidelines regarding confidentiality, which state that information obtained from a person who seeks the assistance of the EEO officer will not be discussed with other personnel except as necessary to investigate and resolve a complaint or other matter.

45. All OEEO documents covered by this Agreement will be amended as soon as practicable to be consistent with the above provisions. The NYPD will forward a draft copy of the revised documents to the USAO within fourteen (14) days of completion of the revisions for the USAO's review and comments.

4. **Action Pending the Outcome of the Investigation**

46. Commencing no later than ninety (90) days following the effective date of this Agreement, upon receipt of a complaint of employment discrimination by OEEO, OEEO must forward to the commanding officer of the command where the incident(s) occurred a memorandum advising him or her as to his/her responsibilities regarding the complaint. The memorandum will

provide that the commanding officer must, as soon as practicable, take such actions as may be directed by OEE0 to prevent employment discrimination, including sexual harassment and related retaliation, from occurring in the future. The memorandum will further provide that such actions may include, but are not limited to, ordering informal counseling for the respondent, ordering instruction on EEO matters for employees of the command/unit, advising employees of the command/unit that employment discrimination, including sexual harassment and related retaliation, are prohibited, or advising the respondent that the NYPD will not tolerate such behavior and that discipline may result. A copy of the memorandum will be retained in the file.

47. Whenever OEE0 directs the commanding officer to take action pursuant to ¶ 46, that directive and the commanding officer's compliance will be documented in the complaint file.

48. All parties contacted by an OEE0 investigator or commanding officer or his/her designee in the course of investigation or conciliation of internal EEO complaints must be informed that retaliation is prohibited, and the OEE0 investigator's manual and the field investigator's manual will so provide.

49. If, during the pendency of the investigation of such a complaint or related disciplinary proceeding, allegations of ongoing acts of employment discrimination, including sexual harassment and related retaliation, concerning the complainant or other potential witnesses are brought to the attention of the OEE0 investigator or the commanding officer conducting the investigation, the investigator or commanding officer will consult with the Deputy Commissioner of OEE0 as soon as practicable to determine whether interim action should be taken against the alleged actors. Anyone found to have engaged in ongoing employment discrimination or related retaliation will be subject to discipline.

50. a. If, during the pendency of an investigation of such a complaint, the OEEEO investigator determines to recommend substantiation of one or more serious allegations of employment discrimination or related retaliation, the OEEEO investigator will confer with the commanding officer of OEEEO as soon as practicable. If the commanding officer of OEEEO concurs, (s)he must advise the Deputy Commissioner of OEEEO as soon as practicable, and take such actions as may be directed by the Deputy Commissioner of OEEEO. These actions may include separation of the complainant and the respondent, such as by reassigning or transferring the respondent, or changing the respondent's tour or squad.

b. Transfer of the complainant to a different command during the pendency of an investigation or related disciplinary proceeding may be effected only under circumstances as determined by OEEEO. Nothing herein shall prevent the transfer of the complainant based upon the needs of the NYPD for reasons unrelated to the complaint, investigation or related disciplinary proceeding.

5. **OEEEO Procedures For Investigating Complaints**

51. Within six (6) months following the effective date of this Agreement, the NYPD will develop an OEEEO investigator's manual, and forward a copy to the USAO for its review and comments. The USAO shall forward its comments, if any, to the NYPD within two (2) weeks of receipt of its copy of the OEEEO investigator's manual. Upon approval of the Commissioner, the NYPD will distribute a copy of the final version of the investigator's manual to each investigator within OEEEO and to the USAO. The manual will be reviewed annually by the Commanding Officer of OEEEO or his/her designee to verify that it is current.

52. The OEEEO investigator's manual will include, but not be limited to, the following topics: interviews of complainants, respondents and witnesses, gathering of evidence, the

application of PG 118-9 (including representation of interviewees), guidelines for the preparation of written reports, and the possible need for interim action if, during the pendency of the investigation, the investigator determines to recommend substantiation of one or more serious allegations of employment discrimination or related retaliation. The manual will also incorporate DCAS recommendations for conducting an investigation.

53. The investigator's manual will include a checklist to guide OEEEO investigators in conducting their investigations. The checklist, to be completed and reviewed prior to the preparation of a draft report, will provide uniformity in procedures, and will help ensure that all appropriate steps in the investigative process have been satisfactorily completed. The checklist will include, but not be limited to, such information as identifying the procedural steps taken and the evidence gathered, listing all witnesses (and whether or not each was interviewed), and the nature and extent of contact with the complainant.

54. OEEEO will issue a written report of the results of each investigation within a time frame provided by guidelines issued by DCAS, which is currently ninety (90) days from the date the complaint is received by OEEEO.

55. All interviews conducted as part of the investigation will be documented for the file.

## **6. Procedures For Field Investigations**

56. In conjunction with the development of the investigator's manual, within six (6) months following the effective date of this Agreement, the NYPD will develop a field investigator's manual, and forward a copy to the USAO for its review and comments. The USAO shall forward its comments, if any, to the NYPD within two (2) weeks of receipt of its copy of the field investigator's manual. The field investigator's manual will be made part of the command library.

57. If a commanding officer conducts an OEEEO field investigation, OEEEO will provide the commanding officer with written direction, guidance and instructions concerning his/her responsibilities, including referring the commanding officer to the field investigator's manual. The manual will be reviewed annually by the Commanding Officer of OEEEO, or his/her designee, to verify that it is current.

58. The field investigator's manual will include, but not be limited to, the following topics: interviews of complainants, respondents and witnesses, gathering of evidence, the application of PG 118-9 (including representation of interviewees), and guidelines for the preparation of written reports. The manual will also incorporate DCAS recommendations for conducting an investigation.

59. The command will investigate complaints of employment discrimination promptly. OEEEO will issue a written report of the results of each investigation within a time frame provided by guidelines issued by DCAS, which is currently ninety (90) days from the date the complaint is received by OEEEO.

60. a. If, during the pendency of the field investigation, the commanding officer determines to recommend substantiation of one or more of the serious allegations of employment discrimination or related retaliation, the commanding officer must advise the Deputy Commissioner of OEEEO. The commanding officer must, as soon as practicable, take such actions as may be directed by the Deputy Commissioner of OEEEO. These actions may include separation of the complainant and the respondent, such as by reassigning or transferring the respondent, or changing the respondent's tour or squad.

b. Transfer of the complainant to a different command during the pendency of an investigation or related disciplinary proceeding may be effected only under

circumstances as determined by OEE0. Nothing herein shall prevent the transfer of the complainant based upon the needs of the NYPD for reasons unrelated to the complaint, investigation or related disciplinary proceeding.

61. The field investigator's manual will include a checklist to guide the command in conducting field investigations. The checklist, to be completed and reviewed prior to the preparation of a draft report, will provide uniformity in procedures, and will help ensure that all appropriate steps in the investigative process have been satisfactorily completed. The checklist will include, but not be limited to, such information as identifying the procedural steps taken and the evidence gathered, listing all witnesses (and whether or not each was interviewed), and the nature and extent of contact with the complainant.

62. All interviews conducted as part of the field investigation will be documented for the file.

7. **OEE0 Reports Of Investigations**

63. Upon the conclusion of each OEE0 and field investigation, OEE0 will prepare a written report. Each report will include findings of fact and recommendations, including, if appropriate, recommended relief for the complainant, recommended disciplinary action to be taken against the offender, and any change in policy.

64. On or about September 30, 1998, the NYPD will provide to the USAO a copy of each OEE0 report finalized since the effective date of this Agreement, and the Commissioner's endorsement. Thereafter, on a quarterly basis commencing on December 31, 1998, the NYPD will provide to the USAO a copy of each OEE0 report finalized in the preceding quarter, and the Commissioner's endorsement.

65. OEE0 will notify the complainant in writing as to the disposition of each of his/her allegations, and any corrective action recommended or taken by the Commissioner. If and when corrective action is implemented, or the complaint is otherwise finally resolved, OEE0 will notify the complainant in writing as to what corrective action was implemented or how the complaint was otherwise resolved.

66. Such notifications will invite the complainant to comment on the disposition of the complaint and to evaluate the OEE0 process, including but not limited to the timing of the investigation, how it was handled, and the flow of information between the complainant and OEE0. A copy of the notification(s) and the complainant's comments, if any, will be maintained in the OEE0 file of the investigation and brought to the attention of the Deputy Commissioner of OEE0.

8. **Procedures Relating To "Substantiated" Complaints**

67. The Patrol Guide will be amended to provide that, following the endorsement by the Commissioner of a recommendation by the Deputy Commissioner of OEE0 that a complaint is substantiated, in whole or in part, OEE0 will require a commanding officer, or other appropriate person, to appear at its office to discuss the final report with the Commanding Officer of OEE0, or his/her designee, and any action as may be directed by OEE0 to address the issues raised therein. At the discretion of the Deputy Commissioner of OEE0, portions of the report may be redacted prior to any such meeting. OEE0 will provide guidance to a commanding officer (or other appropriate person) on his/her various options following the endorsement of the report by the Commissioner, including announcements at the precinct, meetings with supervisors, and reassignment of the respondent. Any such meeting, including any specific directives, will be documented in the complaint file. Following the meeting with the Commanding Officer of OEE0 or his/her designee,

the commanding officer (or other appropriate person with whom the Commanding Officer of OEE0 or his/her designee chooses to meet) will be permitted to discuss the report with supervisors within the command or unit, unless otherwise instructed by OEE0. If OEE0 directs the commanding officer (or other appropriate person with whom the Commanding Officer of OEE0 or his/her designee chooses to meet) to meet with the respondent, (s)he will advise the respondent that the complaint was substantiated, instruct him/her to read PG 120-12, and advise him/her that retaliation constitutes misconduct in violation of PG 120-12, as revised. Such meeting will not be considered an interview pursuant to PG 118-9. A respondent may be represented by his/her union delegate or other representative at such a meeting.

68. The Patrol Guide will be amended to provide that, as part of the procedures described in ¶ 67 above, the commanding officer or unit head must take reasonable steps to prevent the respondent from engaging in additional employment discrimination or related retaliation. The commanding officer/unit head must report to OEE0 all actions taken. Any such actions will be documented in the complaint file.

69. The Commissioner will issue an interim order encompassing the requirements of paragraphs 67 and 68 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

70. Subject to the resolution of the action entitled Garvey, et al. v. Safir, et al., United States District Court, Southern District of New York, 97 Civ. 7661 (JGK), the NYPD, consistent with its current practice, will continue to indicate substantiated EEO complaints on the respondent's Central Personnel Index.



9. **Procedures Related To "Unsubstantiated" Complaints**

71. Within ninety (90) days of the effective date of the Agreement, appropriate NYPD procedures will be amended to provide that, following the endorsement by the Commissioner of a recommendation by the Deputy Commissioner of OEEEO that a claim of discrimination is "unsubstantiated" (as opposed to "unfounded"), OEEEO may require a commanding officer, or other appropriate person, to appear at its office to discuss the final report with the Commanding Officer of OEEEO or his/her designee, and any action as may be directed by OEEEO to address the issues raised therein. At the discretion of the Deputy Commissioner of OEEEO, portions of the report may be redacted prior to any such meeting. OEEEO will provide guidance to a commanding officer (or other appropriate person) on his/her various options following the endorsement of the report by the Commissioner. Any such meeting, including any specific directives, will be documented in the complaint file. Following the meeting with the Commanding Officer of OEEEO or his/her designee, the commanding officer (or other appropriate person with whom the commanding officer of OEEEO or his/her designee chooses to meet) will be permitted to discuss the report with the executive officer and integrity control officer of the command. The commanding officer may also discuss the matter with all supervisors who were interviewed by OEEEO as part of its investigation.

72. The NYPD will forward a copy of the amended procedures to the USAO within ten (10) days of issuance.

73. Subject to the resolution of the action entitled Garvey, et al. v. Safir, et al., United States District Court, Southern District of New York, 97 Civ. 7661 (JGK), the NYPD, consistent with its current practice, will continue to indicate unsubstantiated EEO complaints on the respondent's Central Personnel Index.

10. **Procedures Related To Cases With Unidentified Respondents**

74. Within ninety (90) days of the effective date of the Agreement, appropriate NYPD procedures will be amended to provide that, if the Deputy Commissioner of OEEEO concludes, as a result of either an OEEEO or field investigation, that an act of employment discrimination or related retaliation has occurred, but cannot identify the person(s) responsible, (s)he may require the commanding officer of the command of occurrence, or other appropriate person, to appear at OEEEO's office to discuss the final report with the Commanding Officer of OEEEO or his/her designee, and any action as may be directed by OEEEO to address the issues raised therein. At the discretion of the Deputy Commissioner of OEEEO, portions of the report may be redacted prior to any such meeting. OEEEO will provide guidance to a commanding officer (or other appropriate person) on his/her various options following the endorsement of the report by the Commissioner, including announcements at the precinct and meetings with supervisors. If warranted, OEEEO will recommend that the entire command receive additional training or education concerning issues of employment discrimination, sexual harassment and/or related retaliation. Any such meeting, including any specific directives, will be documented in the complaint file. Following the meeting with the Commanding Officer of OEEEO or his/her designee, the commanding officer (or other appropriate person with whom the Commanding Officer of OEEEO, or his/her designee, chooses to meet) will be permitted to discuss the report with supervisors within the command or unit, unless otherwise directed by the Deputy Commissioner of OEEEO.

75. The NYPD will forward a copy of the amended procedures to the USAO within ten (10) days of issuance.

**11. OEEO Procedures For Conciliating Complaints**

76. Within ninety (90) days following the effective date of this Agreement, the NYPD will reduce to writing its procedures for conciliating complaints and forward a copy to the USAO for its review and comments. The USAO shall forward its comments, if any, to the NYPD within two (2) weeks of receipt of its copy of the procedures. The NYPD will then forward a copy of the final version of the procedures to the USAO. Those procedures will be reviewed annually by the Commanding Officer of OEEO or his/her designee, to verify that they are current. All literature distributed by OEEO will be reviewed annually by the Commanding Officer of OEEO or his/her designee to verify that it is consistent with the written procedures. Copies of the written procedures will be redistributed at least once every three years to each employee of the NYPD and to the USAO. Copies of the written procedures will be distributed to each employee of the NYPD who makes a complaint to OEEO at the time a complaint is made.

77. OEEO's written procedures for handling conciliations will include, but not be limited to, the following topics: interviews of complainants, respondents and witnesses, review of relevant documents, and the availability of counselling and training for the respondent. The written procedures will also incorporate DCAS guidelines for conciliation and mediation.

78. In those cases where conciliation will take place, OEEO will complete the conciliation process within 60 days of receiving the request for conciliation. If the field conducts the conciliation, OEEO will provide the commanding officer a copy of its procedures for conciliating complaints, and guidance concerning the conciliation process. If a conciliation results in an agreement amenable to all parties, the commanding officer/unit head conducting the conciliation or OEEO must prepare a report indicating the steps taken to resolve the complaint. The terms of the agreement will be embodied in a written agreement that must be signed by the complainant(s) and the

respondent(s) and forwarded to OEE0. Copies of the agreement will be given to the complainant(s) and respondent(s). OEE0 will also forward to the complainant a notification inviting the complainant to comment on the disposition of the complaint, and to evaluate the OEE0 process, including but not limited to the timing of the conciliation, how it was handled, and the flow of information between the complainant and OEE0. A copy of the notification will be placed in the file, and all comments will be documented in the file and brought to the attention of the Deputy Commissioner of OEE0. Upon written request, the USAO may review the conciliator's file following the resolution of the complaint.

#### **VIII. RESPONSIBILITY OF COMMANDING OFFICERS/UNIT HEADS**

79. The Patrol Guide will be amended to provide that commanding officers/unit heads or designated supervisors are required to:

- a. Discuss NYPD's sexual harassment policy with all employees, uniformed and civilian, within their command;
- b. Reiterate to supervisors that they are responsible for creating a professional work environment for their subordinates;
- c. Regularly assess the working environments within their commands/units in order to maintain a professional atmosphere and rectify those situations which undermine professional conduct and achievement;
- d. Advise employees that vulgar language, sexually degrading statements or jokes, as well as the display of photographs or magazines of a sexual nature, are offensive, unwelcome, inappropriate in the work place, and subject to disciplinary action; and
- e. Encourage all employees to report inappropriate conduct.

80. The Commissioner will issue an interim order encompassing the requirements of paragraph 79 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

**IX. INCREASE IN OEEEO PERSONNEL**

81. Within six (6) months following the effective date of this Agreement, the NYPD will increase the staffing of OEEEO from 20 to 30 employees. On or before June 30, 1998, and at annual intervals thereafter until the date this agreement is terminated, the NYPD will provide to the USAO a list of all employees in OEEEO, with date of assignment to OEEEO and a brief description of each employee's title/position/function, including whether (s)he is an investigator or is in the EEO Compliance and Statistical Analysis Unit described below in paragraph 84.

82. All OEEEO investigators will receive training from DCAS upon assignment to OEEEO, obtain certification from the Cornell University School of Industrial and Labor Relations (or comparable training) within two years of assignment to OEEEO, and will take the Internal Affairs Bureau ("IAB") basic course within one year of assignment.

83. On or before June 30, 1998, the NYPD will provide to the USAO (a) a list of all current OEEEO investigators who have received DCAS training, (b) a list of all current OEEEO investigators who have obtained certification from the Cornell University School of Industrial and Labor Relations (or comparable training), and (c) a list of all current OEEEO investigators who have taken the IAB basic course. At annual intervals thereafter until the date this agreement is terminated, the NYPD will provide to the USAO lists of current OEEEO investigators who, in the past year, have (a) received DCAS training, (b) obtained certification from the Cornell University School of Industrial and Labor Relations (or comparable training), or (c) taken the Internal Affairs Bureau basic course.

84. The NYPD will create a special unit within OEE0 once OEE0's staff has increased, to be called the EEO Compliance and Statistical Analysis Unit. This Unit will be dedicated toward performing specific functions such as training, data collection, and developing a program that will enable OEE0 to retrieve a record of the entire case history of an OEE0 case from its own database.

**X.            REVISED POLICY REGARDING THE DISPLAY  
OF SEXUALLY EXPLICIT MATERIALS**

85.        The NYPD agrees to incorporate Interim Order 43 on "Sexual, ethnic, racial, religious, or other discriminatory slurs through the display of graphic material" into the Patrol Guide with the following amendments:

- a.        Any non-supervisory employee who becomes aware of the display of material covered by Interim Order 43 is strongly encouraged to report it to one or more of the following: a supervisor, commanding officer/unit head, EEO liaison counsellor, or OEE0.
- b.        A supervisor who becomes aware of the display of material covered by Interim Order 43 must as soon as practicable (1) report it to OEE0 and obtain a log number; (2) report it to the commanding officer/unit head; and (3) under OEE0's direction take possession of or photograph the offending material prior to correcting the condition, and invoice the evidence as investigatory evidence.
- c.        Upon receiving a report of the display of material covered by Interim Order 43, OEE0 will notify the commanding officer/unit head of the command/unit in which the display occurred.
- d.        A commanding officer/unit head who witnesses or receives a complaint of a violation of Interim Order 43 shall, where appropriate, take reasonable steps to communicate to the members of the command/unit that a display of material covered by Interim Order 43 has occurred, that it violates NYPD policy as indicated in Interim Order 43, and advise his or her subordinates that these forms of behavior will not be tolerated and are subject to disciplinary action.
- e.        The commanding officer/unit head shall determine appropriate investigative follow-up in consultation with OEE0. (S)he must

promptly report the results of his or her investigation, if any, to OEEEO orally, and provide a written report.

86. The Commissioner will issue an interim order encompassing the requirements of paragraph 85 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

**XI. RETALIATION**

87. The NYPD will continue to communicate to its employees its strict policy of prohibiting retaliation against complainants and/or witnesses who make EEO complaints or who participate in OEEEO investigations.

**XII. VIOLATIONS OF POLICIES AGAINST SEXUAL HARASSMENT, DISCRIMINATION AND RETALIATION**

88. The NYPD's commitment to effectively addressing and preventing discrimination includes a commitment to disciplining those employees who have violated the NYPD's EEO policies. In addition, violation of the NYPD's EEO policies may adversely affect an employee's opportunities for advancement within the NYPD.

**XIII. AMENDMENT OF PERFORMANCE APPRAISAL FORMS**

89. The Commissioner will issue an interim order providing that: (a) an employee's performance concerning equal employment opportunity issues will be taken into account when that employee receives a performance evaluation; (b) EEO factors having a bearing on the rating in that category will include, but not be limited to, whether the employee has engaged in conduct that violates the terms of the Patrol Guide, Title VII, other applicable equal employment opportunity laws, or the NYPD's equal employment opportunity policy; and (c) if an employee is disciplined as a result of an equal employment opportunity-related issue, it will be noted in his or her annual performance evaluation. The order will also provide that the NYPD will take into account

the employee's performance with regard to the NYPD's obligations under the Patrol Guide, Title VII, other applicable equal employment opportunity laws and the NYPD equal employment opportunity policy in deciding whether an NYPD employee will receive any promotion. The NYPD will issue this interim order within 90 days following the effective date of this Agreement.

90. The interim order will be distributed to all employees in the NYPD, in a manner consistent with the current practice for distribution of interim orders, and a copy will be forwarded to the USAO within ten (10) days of such distribution.

91. The NYPD will revise the performance evaluation instructions utilized to evaluate all personnel in the NYPD to include an equal employment opportunity ("EEO") factor. The NYPD will revise those instructions within ninety (90) days following the effective date of this Agreement, and forward a copy of the instructions to the USAO within ten (10) days of said revisions.

#### **XIV. RECORD-KEEPING AND REPORTING**

92. The NYPD will develop a computer program which will enable OEEEO to retrieve a record of the entire case history of an EEO case, including the names and titles/positions of the complainants and respondents, the commands where the complaint arose, race/sex of the complainants and respondents, the date of the complaint, the nature of the complaint, the recommendation made by OEEEO, the date of the recommendation by OEEEO, the determination reached by the Commissioner, the date of the Commissioner's determination, and the specific remedy and/or discipline implemented (i.e., \_\_\_ days of command discipline, suspension for \_\_\_ days, \_\_\_ hours of sexual harassment training). These records will be maintained and retrievable via computer program in each of the categories listed above.



93. For the duration of this Agreement, the NYPD will also retain (a) internal complaints of sexual harassment, gender discrimination or related retaliation filed with OEEEO, including OEEEO and field case files; (b) disciplinary files relating to internal complaints of sexual harassment, gender discrimination, or related retaliation (including files within the Department Advocate's Office and the Office of the Deputy Commissioner of Trials); and (c) any training materials created by the Deputy Commissioner of OEEEO and/or the Director of Training pursuant to this Agreement. The records described above will be made available to the USAO upon written request, subject to redactions of privileged material. Case files will be made available only after the case is closed.

94. Within ninety (90) days of the effective date of this Agreement, the NYPD will provide to the USAO (a) a list of all complaints of sexual harassment, gender discrimination or related retaliation filed with OEEEO and pending as of the effective date of this Agreement, and (b) a list of all charges and complaints of sexual harassment, gender discrimination or related retaliation filed against the NYPD or its employees with the EEOC, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any court of competent jurisdiction, and pending as of the effective date of this Agreement, including the complainant's name, the government agency/jurisdiction in which the complaint or charge was filed, and the government agency/jurisdiction case number.

95. For the duration of this Agreement, OEEEO will retain all documents that are now in or come into its possession relating to charges or complaints of sexual harassment, gender discrimination or related retaliation filed against the NYPD or its employees with the EEOC, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any court of competent jurisdiction which are received subsequent to the filing of this Agreement. Non-

privileged records of cases not then pending will be made available to the USAO upon written request.

96. The NYPD will amend the Patrol Guide to require all affected units and commands within NYPD to forward to OEE0 the disposition of all cases which involve the unit's/command's investigation of any EEO complaint or issue.

97. The Commissioner will issue an interim order encompassing the requirements of paragraph 96 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

98. Within two (2) weeks of their issuance, the NYPD will provide to the USAO a copy of the OEE0 Annual Report, and copies of all reports provided by NYPD to DCAS or any other government agency relating to gender discrimination and sexual harassment.

99. The NYPD will make available to the USAO, upon request, such additional records, reports and/or documentation necessary to establish the NYPD's compliance with the terms of this Agreement.

1. **Reports**

100. For purposes of this Agreement, a reporting period will run from July 1 through June 30 for each year. Within ninety (90) days from the close of each reporting period, the NYPD will provide to the USAO (in a uniform reporting form to be agreed upon by the parties), in both hard copy and computer disk form, a list of all cases opened with OEE0 from the effective date of this Agreement to the end of the reporting period relating to sexual harassment, gender discrimination and related retaliation, indicating the names and titles/positions of the complainants and respondents, the commands where the complaints arose, race/sex of the complainants and the person(s) accused, the dates of the complaints, the nature of the complaints, the recommendations

made by OEEEO, the dates of the recommendations by OEEEO, the determinations reached by the Commissioner, the dates of the determinations by the Commissioner, and the specific remedies and/or discipline implemented (i.e., \_\_ days of command discipline, suspension for \_\_ days, \_\_ hours of sexual harassment training).

101. Between the effective date of this Agreement and the date the first list of complaints is provided to the USAO pursuant to paragraph 100, OEEEO will provide to the USAO at six-month intervals (a) a list of all complaints of sexual harassment, gender discrimination or related retaliation filed with OEEEO within the preceding six months, including the complainant's name and the OEEEO case number, and (b) a list of all charges and complaints of sexual harassment, gender discrimination or related retaliation filed against the NYPD or its employees with the EEOC, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any court of competent jurisdiction, of which OEEEO becomes aware within the preceding six months, including the complainant's name, the government agency/jurisdiction in which the complaint or charge was filed, and the government agency/jurisdiction case number.

102. The access afforded the USAO to the records, reports and documents of the NYPD under paragraphs 93, 94, 95, 99, 100 and 101 herein is intended to provide the USAO with the means for monitoring the NYPD's compliance with the terms of the Agreement, and to gauge the effect of this Agreement on NYPD's response to reported complaints of gender discrimination, sexual harassment and related retaliation. Such access is not intended for purposes of enabling the USAO to obtain documents and/or information to be used in any subsequent litigation against the NYPD pursuant to Title VII with respect to gender discrimination, sexual harassment and related retaliation. Notwithstanding the above, the USAO will not be precluded from using such

documents and/or information in connection with any such subsequent litigation commenced pursuant to the USAO's obligations to enforce federal law.

**2. Command Profiles**

103. Consistent with the NYPD's current policy, each precinct, patrol service area, and transit district commanding officer who is new to a command must attend a command profile conferral with OEEEO for a review of the EEO history of the command. All other commanding officers/unit heads may elect to attend a command profile conferral with OEEEO to review all complaints or inquiries, if any, filed and/or resolved during the past year concerning discrimination within the command.

104. On an annual basis from the effective date of this Agreement to its termination, OEEEO will provide to the USAO a list of commanding officers who participated in command profile conferrals in compliance with paragraph 103.

**XV. EXPANSION OF THE EEO LIAISON COUNSELORS PROGRAM**

105. Commencing no later than six (6) months after the effective date of this Agreement, the NYPD will make reasonable efforts to recruit additional volunteers to serve as OEEEO Liaison Counselors by soliciting from each commanding officer his or her recommendations for persons to serve in that capacity. As part of the selection process, OEEEO will determine whether the person is qualified, and, if so, whether the person wishes to volunteer. Those who are selected and agree to serve as EEO Liaison Counselors will be trained in their responsibilities, which may include:

- a. Explaining EEO procedures to employees in the field;
- b. Distributing copies of complaint procedures, EEO policies, and complaint forms to employees of service as necessary; and
- c. Reporting to OEEEO any complaint of employment discrimination received by them.

106. The EEO Liaison Counselors will receive training in current OEEEO procedures from OEEEO periodically, as needed.

107. The name, function, work location, and telephone number of each EEO Liaison Counselor will be published in OEEEO's Annual Report and its published Policy. Sexual harassment policy statements and EEO policy statements will contain a statement advising employees to call OEEEO at (phone number) to obtain the name of their counselor.

**XVI. AMENDMENTS TO THE PATROL GUIDE**

108. The index to the Patrol Guide will be amended to add "Gender Discrimination," "Sexual Harassment," "Harassment, Sexual," and "Harassment, Racial." The index to the Patrol Guide will also be amended to add PG 120-12 to the entries for Racial Discrimination and Religious Discrimination.

109. PG 104-01, p. 3 ¶ 2(a) will be amended to include gender.

110. PG 120-12 will be amended to incorporate changes to EEO practices and policies referred to herein.

111. PG 120-12 will also be amended specifically to include retaliation as the basis for a discrimination complaint or problem.

112. The NYPD will modify PG 104-01 to include, under "Prohibited Conduct," those actions prohibited in PG 120-12.

113. The Commissioner will issue an interim order encompassing the requirements of paragraph 108-112 above within ninety (90) days after the effective date of this Agreement. The NYPD will forward a copy of that order to the USAO within ten (10) days of issuance.

**XVII.        DAMAGES**

114. In light of New York City's payment of damages to Ms. Goff pursuant to the Stipulation of Settlement and Discontinuance dated August 22, 1997 as between Ms. Goff and the NYPD, the United States agrees not to seek any additional damages on Ms. Goff's behalf.

**XVIII.       APPLICATION AND PARTIES BOUND**

115. This Agreement applies to and is binding upon the parties and their officers, agents, employees, successors and assigns. The undersigned representatives of the parties certify that they are authorized to enter into and consent to the terms and conditions of the Agreement and to execute and legally bind the parties to it.

116. This Agreement in no way affects or relieves the NYPD of its responsibility to comply with any federal, state, or local law or regulation.

**XIX.        RESERVATION OF RIGHTS**

117. Nothing contained in this Agreement is intended or shall be construed as a waiver by the United States of any right to institute any proceeding or action against the NYPD for any past, present, or future violations of any statutes, rules, or regulations administered by the United States, or to prevent or limit the rights of the United States to obtain relief under Title VII, or any other federal statutes or regulations, or any other relief on account of any violation of this Agreement or any other provision of law. During the term of this Agreement, any proceeding or action concerning gender discrimination or sexual harassment, including retaliation, will be commenced only after prior written notification by the USAO to the Deputy Commissioner for Legal Matters of the NYPD and to the Office of the Corporation Counsel that such a violation is being alleged. The purpose of such notification is to provide the NYPD a reasonable opportunity to

remediate the alleged violation, including the payment of damages, where appropriate, and thereby obviate the need for any further litigation.

118. In particular, the United States reserves the right to bring suit against the NYPD under § 706 of Title VII on behalf of complainants other than Sheryll Goff, and reserves the right to bring suit against the NYPD under § 707 of Title VII.

119. Nothing contained in this Agreement is intended or shall be construed to suggest that the United States agrees that compliance with this Agreement will insulate the NYPD from liability in other lawsuits or other proceedings.

120. Nothing herein is intended or shall be construed to grant any rights to the United States to revise or approve the terms of any literature, Interim Orders, amendments to the Patrol Guide or any other documents provided to it by the NYPD under this Agreement. Any disagreement by the United States with any of the provisions of any such material shall not in itself be deemed a breach of this Agreement.

**XX.**

**MODIFICATION OF THIS AGREEMENT**

121. This Agreement can only be modified on the written consent of both parties.

**XXI.**

**OTHER AGREEMENTS**

122. This Agreement represents the entire agreement between the parties. No prior agreements, oral representations, or statements shall be considered part of this Agreement.

123. This Agreement will not constitute an admission, adjudication, or finding on the merits of the civil action.

124. This Agreement is a public document and may be made available to any person by the United States or the NYPD.

125. Notwithstanding anything contained herein to the contrary, the parties acknowledge that the deadlines set forth herein reflect the NYPD's current best estimate of the time periods needed to satisfy their obligations hereunder, and that such deadlines may not be sufficient in all cases and may need to be revised from time to time, with written consent of the parties. Such consent shall not be unreasonably withheld.

126. Notwithstanding anything contained herein to the contrary, the NYPD is bound by the practices, policies and procedures established by DCAS with respect to certain matters set forth in this Agreement. Accordingly, in the event any term set forth herein is inconsistent with or contrary to the practices, policies and procedures established by DCAS, the practices, policies and procedures established by DCAS shall govern.

127. All notices contemplated by this Agreement shall be delivered by hand and by telefacsimile as follows:

A. To the United States Attorney's Office:

United States Attorney's Office  
Southern District of New York  
100 Church Street, 19th Floor  
New York, New York 10007  
Telefacsimile No. (212) 637-2825  
Attn: James L. Cott, Esq.

B. To the Office of the Corporation Counsel:

Office of the Corporation Counsel  
100 Church Street, 4th Floor  
New York, New York 10007  
Telefacsimile No. (212) 788-1298  
Attn: Thomas C. Crane, Esq.



C. To the New York City Police Department

New York City Police Department  
Deputy Commissioner for Legal Matters  
One Police Plaza, Room 1406  
New York, New York 10038  
Telefacsimile No. (212) 374-0284  
Attn: George Grasso, Esq.

or to such other address, telefacsimile number or person as the parties (or their counsel) may designate and notify each other in writing.

**XXII. STATUS OF THE CIVIL ACTION, AND  
TERMINATION OF THIS AGREEMENT**

128. Following the effective date of the Agreement, the parties will submit to the Court a proposed Stipulation and Order that places the civil action on the Court's suspense docket until December 31, 2001, with the Court to retain jurisdiction only for the purposes of resolving disputes arising under this Agreement, determining the parties' compliance with the terms and provisions contained in this Agreement, and enforcing the terms and provisions contained in this Agreement. In no event shall the parties be entitled to revive the civil action for purposes of adjudicating the claims set forth in the Complaint or Amended Complaint. The parties reserve their rights to appellate review, as governed by applicable law.

129. This Agreement shall terminate on December 31, 2001, subject to the provisions of ¶ 132 below. Upon termination of this Agreement, the civil action shall be dismissed with prejudice.

130. Following the execution of this Agreement, and for the duration of this Agreement, representatives of the USAO, the Corporation Counsel, and the NYPD will meet every six months to assess informally the NYPD's compliance with the terms of the Agreement and to discuss any relevant problems or developments which may have arisen since the effective date of the

Agreement. At least two weeks prior to each such meeting, the USAO shall forward to the Office of the Corporation Counsel a written agenda for the meeting.

131. At any time prior to the expiration of the Agreement, should the USAO determine that the NYPD has failed to comply with any term of the Agreement, the USAO shall forward written notification of such non-compliance to the Deputy Commissioner for Legal Matters of the NYPD and to the Office of the Corporation Counsel.

A. Should the NYPD agree that it has not complied with the specified term(s), the NYPD shall specifically perform said term(s) within a reasonable period of time, to be mutually agreed upon through the good faith efforts of the parties and their counsels.

B. Should the NYPD dispute the USAO's determination of NYPD's non-compliance, or if the parties cannot agree on a time frame within which the NYPD is to perform an obligation with which it agrees it has not complied, or in the event the NYPD fails to perform an obligation it has agreed to perform in accordance with the provisions of paragraph 131(A), the USAO may apply to the Court for an order directing specific performance of that term or terms.

C. In no event shall the NYPD be held in contempt for proven non-compliance with any of the terms or provisions of this Agreement unless and until the NYPD fails to comply with an order from the Court directing specific performance of such terms or provisions, obtained by the USAO in compliance with the provisions of this paragraph.

132. No sooner than ninety (90) days prior to the termination of this Agreement, the USAO may apply to the Court for an extension of the Agreement and/or any of the terms and obligations contained herein, which application shall be granted only upon the USAO's showing of the NYPD's non-compliance with the terms or obligations herein. Such extension shall not exceed one year, and shall be applicable only with respect to such term(s) and obligation(s) for

which the USAO establishes the NYPD's non-compliance. This Agreement shall terminate with respect to any and all obligations which are not a subject of the motion, except that, if this Agreement is extended, then the meetings described in ¶ 130 will continue during the extension period, and the NYPD will continue to make available to the USAO records, reports and/or documentation necessary to determine compliance. If the Court does not rule on the USAO's motion by the date that this Agreement is scheduled to terminate, the obligations which are the subject of the motion will continue until the date of the Court's ruling.

133. If this Agreement is extended, then the parties will submit to the Court a proposed stipulation and order that extends the period that the civil action will be placed on the Court's suspense docket for a period to correspond to the period of the extension.

Agreed To:

On behalf of Plaintiff United States of America

MARY JO WHITE  
United States Attorney for the  
Southern District of New York

By:



Dated:

June 18, 1998

KATHERINE A. STATON  
Assistant United States Attorney

By:

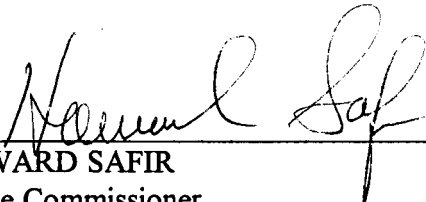


Dated:


June 18, 1998


JAMES L. COTT  
Assistant United States Attorney  
100 Church Street, 19th Floor  
New York, New York 10007  
(212) 637-2695

On behalf of defendant New York City Police Department

By:  Dated: June 18, 1998  
HOWARD SAFIR  
Police Commissioner

MICHAEL D. HESS  
Corporation Counsel of the  
City of New York

By:  Dated: June 18, 1998  
JENNIFER E. LIDDY  
Assistant Corporation Counsel

By:  Dated: June 18, 1998  
JEFFREY S. DANTOWITZ  
Assistant Corporation Counsel  
100 Church Street, 4th Floor  
New York, New York 10007  
(212) 788-0939

COMPLAINT EVALUATION AND OPTION REPORT

DATE: \_\_\_\_\_

COMPLAINANT: \_\_\_\_\_

LOG: \_\_\_\_\_

INVESTIGATOR: \_\_\_\_\_

CASE: \_\_\_\_\_

After reviewing the details of this complaint and discussing the options of handling the matter with the investigator, it is the desire of the complainant that:

\_\_\_\_\_ An investigation will be conducted by the Office of Equal Employment Opportunity ("OEEO") with recommendations made to the Police Commissioner. The respondent will be notified in writing of the nature of the allegations. (OEEO Case)

\_\_\_\_\_ An investigation will be conducted by the complainant's Commanding Officer under the supervision of an OEEO investigator. The respondent will be notified of the complainant's allegations by the Field Commanding Officer. The Field Commanding Officer will prepare a report to the Commanding Officer, OEEO, who will make recommendations to the Police Commissioner. (Investigatory Field Case)

\_\_\_\_\_ An attempt will be made by OEEO to conciliate the matter, with the goal that the parties will voluntarily agree to a resolution of the matter involved. (OEEO Conciliation Case)

\_\_\_\_\_ An attempt will be made to conciliate the matter by the complainant's Commanding Officer after conferral with and under the guidance of OEEO, with the goal that the parties will voluntarily agree to a resolution of the matter involved. (Field Conciliation Case)

\_\_\_\_\_ The complainant will take further actions on his/her own behalf with no further action by the OEEO.

\_\_\_\_\_ The complainant chooses to file a formal complaint with an outside agency. (The complainant may file a formal complaint with an outside agency and at the same time choose one of the investigation options above.)

\_\_\_\_\_ It appears that the complaint does not involve an EEO issue, because

\_\_\_\_\_ The complainant was referred to \_\_\_\_\_ for assistance.

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Supervisor of Investigations